

**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Chapter 7	Number 24	Effective Date 12/05/11	Review Date 2014
Subject PUBLIC INFORMATION REQUESTS			☐ New Order ☒ Replaces G.O. 7-44 (02/28/07) E.O. 07-14 (09/26/07)
References CALEA 54.1.1a, 54.1.1b, 54.1.1c, 54.1.1d, 54.1.1e, 54.1.1f, 54.1.3 VLEPSC ADM.22.01a, ADM.22.01b, ADM.22.01c, ADM.22.01d, ADM.22.01e, ADM.22.01f, ADM.22.01g, ADM.22.01h, ADM.22.02, ADM.22.03a, ADM.22.03b, ADM.22.03c, ADM.22.03d, ADM.25.03d, OPR.05.01a, OPR.05.01d, OPR.05.01f VA Code 2.2-3701, 2.2-3704(f), 2.2-3706, 9.1-101, 15.2-1714, 16.1-299, 16.1-301, 16.1-305, 16.1-309.1, 46.2-379, 19.2-389 VA Administrative Code 6 VAC 20-120-50 Wilson v. Layne, 526 US 603 (1999) City Administrative Regulation 3.1 General Order 6-14, Digital Mobile Video Recorder System (DMVR) General Order 6-19, Receipt/ Transmittal of Legal Papers and Lawsuit Papers for Employees			
 _____ Chief of Police or Designee 12/05/11 _____ Date			

I. PURPOSE

The purpose of this directive is to establish the guidelines, procedures and responsibilities for the release of public information. This directive outlines the process and specific procedures for receiving and responding to Freedom of Information Act (FOIA) requests under Virginia law but also provides general agency guidelines for determining the type of information that may and may not be released to the public.

II. POLICY

- A. As a law enforcement agency, the Richmond Police Department has access to and is responsible for a wide variety of records and/or documentation. In order to promote the effective use of this information, while complying with applicable laws and administrative agreements, it is necessary that each member of the Department is aware of the Department's information sharing procedures. It is the policy of the Richmond Police Department to comply with all applicable local, state and federal laws referring to the dissemination of any/all information that is requested.
- B. The public information function is one in which every Department member may become involved, depending upon the circumstances surrounding a given situation. Therefore, each member must be fully aware of the procedures governing the release of information.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. DEFINITIONS

- A. PUBLIC RECORD – All writings and recordings which consist of letters, words, numbers or their equivalent, set down by handwriting, typewriting, printing, copying, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. (*VA Code §2.2-3701*)
- B. CRIMINAL HISTORY RECORD INFORMATION – Records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrest, detentions, indictments, information or other formal charges and any disposition arising there from. The term shall not include juvenile record information, criminal justice intelligence information, criminal justice or correctional status information. (*VA Code §9.1-101*)
- C. CRIMINAL INCIDENT INFORMATION – A general description of the reported criminal activity, date and general location the alleged crime was committed, identity of the investigating officer and a general description of any injuries suffered or property damaged or stolen. (*VA Code §2.2-3706*)
- D. NON-CRIMINAL INCIDENTS RECORDS - Compilations of non-criminal occurrences of general interest to law-enforcement agencies such as missing persons, lost and found property, suicides and accidental deaths.
- E. *CRIMINAL INVESTIGATIVE FILE – Any documents and information including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information.*
- F. NORMAL BUSINESS HOURS - 8:00 a.m. – 5:00 p.m., Monday through Friday.

V. PROCEDURES

A. General:

1. The Department shall make every reasonable effort to serve the needs of the community by informing them about crime and other police matters.
2. The Department's community-oriented policing principles include a commitment to providing equal access to public service, adherence to democratic principles, and accountability to the community. These goals are achieved through the broad dissemination of information in accordance with relevant laws.

3. Authority to release official records and/or information of any type shall be limited to the Chief of Police, **Deputy** Chief (s) of Police, OIC of **the** Central Records Unit, the **Office of** General Counsel and **the** Public Affairs Manager or individuals specifically designated by them.
 4. ***The Public Affairs Unit shall release information about victims and suspects as allowed by law and, in conjunction with the Chief of Police or designee, coordinate and authorize release of information concerning confidential departmental investigations and operations.***
 5. Inquiries concerning departmental policies, procedures, practices or relationships with other criminal justice agencies ***shall be referred to the Public Affairs Unit Manager or designee. Similarly, the Manager or designee*** shall coordinate all responses to inquiries or release of information pertaining to department involvement with other public service agencies, i.e. fire department, medical examiner, commonwealth's attorney, etc.
 6. The Central Records Unit shall be the Department's official records custodian and the Public Affairs Unit shall be the primary point of contact for all incident information requests by the media via email or telephone during normal business hours. This enables the Public Affairs Unit to monitor requests, ensure a consistent dissemination of information, assign a response to the appropriate person ***and arrange for news conferences as required or requested.*** This does not preclude supervisors from speaking to the media; however, the supervisor should notify the Public Affairs Unit about the interview.
 7. The Public Affairs Unit is the primary contact for the media during normal business hours. After hours, on weekends, and holidays, the ***Watch Commander*** or designee is the primary point of contact.
 8. The Chief of Police or designee shall coordinate responses to inquiries and the release of records and/or information concerning confidential departmental investigations and operations.
 9. The on-duty supervisor may direct another officer with the most relevant knowledge at the scene of an incident to respond to record and/or information requests. Where several officers have records and/or information, one shall serve as the media contact and shall gather records and/or information from the others, as directed by the on-duty or on-scene supervisor.
 10. In the case of follow-up investigations, the officer or detective conducting the follow-up shall provide records and/or information in the absence of the Chief of Police or on-duty supervisor.
- B. Types of Records and/or Information that MUST be Released:
1. For felonies only: "criminal incident information" which ***refers to*** a general description of the criminal activity reported, date and general location of the alleged crime, identity of the investigating officer and a general description of any injuries suffered or property damaged or stolen.

- a. Criminal incident information must be released UNLESS releasing the information is likely to:
 - 1.) Jeopardize an on-going investigation or prosecution;
 - 2.) Jeopardize the safety of an individual;
 - 3.) Cause a suspect to flee or evade detection; or,
 - 4.) Result in the destruction of evidence.
 - b. Once the above-mentioned dangers are no longer likely to occur, the information must be provided. Those portions of requested “criminal incident information” that are not likely to cause the above-mentioned dangers should be released upon request.
 - c. Although only a general location of the alleged crime is required, the specific address may be released except where otherwise prohibited by law.
2. Identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest. (This applies to felonies, misdemeanors and traffic arrests.) If a warrant has been executed, the name, address, and description of that person may be released. If a warrant has been issued, but not executed, and the officer anticipates that the public may provide information to assist in locating the person, this information may be released.
 3. Photographs of adult arrestees UNLESS the release of the photograph will jeopardize an investigation. The photo must be released when doing so will no longer jeopardize an investigation.
- C. Type of Records and/or Information that MAY be Released AT THE RICHMOND POLICE DEPARTMENT’S DISCRETION (only if release of the information is not otherwise prohibited by law):
1. ***Criminal Investigative Files*** are exempt from release under Virginia FOIA. Only those persons specifically authorized may release records on matters involving investigations after exercising their discretion in reviewing the request.
 2. The type of injury, description of its location ***and*** whether a weapon was involved (not a specific make or model).
 3. The type and quantity of property taken, physical injuries or death (after notification of next of kin).
 4. The identity of any victim or witness “need not but may” be disclosed, unless prohibited or restricted under VA Code §19.2-11.2.
 5. The number of officers or people involved in an event or investigation, type of investigation and length of time of the investigation has been in progress.

6. The name of the officer in charge of the case and his/her supervisor (except the names of undercover personnel).
7. Information on persons who have warrants on file or indictments issued, particularly where public safety is at stake or when a release would assist in apprehending the suspect.
8. Reports submitted in confidence to state and local law enforcement agencies.
9. Records relating to Neighborhood Watch Programs that include the names, addresses, and operating schedules of individual participants in the program that are provided under a promise of anonymity.
10. Records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment.
11. All records of adult persons under investigation or supervision by a local pre-trial services agency; investigation, probation supervision or monitoring by a local community-based probation program; or investigation or supervision by state probation and parole services.
12. General information about motor vehicle accidents such as the date, time, and location of the accident, names and addresses of the drivers, owners of the vehicles involved, injured persons, witnesses, and one investigating officer but not the accident reports themselves with the exception that any victim is entitled to a copy of his/her report.
13. Personnel records except that access shall not be denied to the person who is the subject of the record.
14. No provision of the FOIA shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility. However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution.

NOTE: The above provided list is not exclusive and the entire Virginia Freedom of Information Act should be consulted upon each individual request. Should any member of the Richmond Police Department have questions concerning whether or not specific information may be released to the public under FOIA, the member shall consult with the Office of General Counsel.

D. Type of Records and/or Information That SHALL NOT be Released:

1. Those portions of non-criminal incident or other investigative reports or materials containing identifying information of a personal, medical or financial nature provided to the Department where the release of such information would jeopardize the safety or privacy of any person;
2. Those portions of any records containing information related to plans or resources dedicated to undercover operations;

3. Records of background investigations of applicants for *law-enforcement* employment, *administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency* or other confidential administrative investigations conducted pursuant to law;
4. *Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details.*
5. The identity or address of victims of a sex crime, unless that victim was murdered during the incident, or the name(s) of victims of any crime where the victim or a family member has made such request. Officers should ask victims if they wish to have their information restricted and shall mark “Y” in the Restricted Box on the IBR if the victim so desires;
6. The identity of persons killed until the next of kin has been notified;
7. Comments on the expected testimony or credibility of any witnesses;
8. Any opinion as to the accused person’s guilt or innocence, merits of the case, possibility of any pleas or negotiations, or probative value of any evidence;
9. The amount of money taken in any robbery (except in general terms such as “undetermined”);
10. The existence of a suspect’s prior criminal record except in general terms or any information concerning the character or reputation of the accused or any personal opinions per VA Code §19.2-389. VA Code §19.2-389 and 6 VAC 20-120-50 of the Virginia Administrative Code prohibit the dissemination of Criminal History Record Information, its existence or non-existence, to persons or agencies not eligible to receive the information. The list of eligible individuals or entities is set forth in VA Code §19.2-389. The release of Criminal History Record Information to an individual or entity not included in §19.2-389 is a Class 2 misdemeanor.
11. The performance in any examination or tests administered to the accused, or the refusal or failure to submit to an examination or test;
12. The existence or contents of any confession, admission or statements of the accused;
13. The contents of any suicide note or names of persons who have attempted suicide unless they are charged in additional criminal activity;
14. Information received from another agency unless that agency consents to the release;
15. Information that may impede an investigation or the details of any internal investigation without the approval of the Chief of Police or designee;
16. Department reactions to any lawsuit(s) naming the Department or its employees;

17. Home addresses, telephone numbers or personal information about employees, except where failure to release interferes with the investigation or execution of duties by police personnel or becomes a safety issue; and,
 18. Any other information that is prohibited by law from being released.
- E. Release of Information Pertaining to Juveniles:
1. Criminal Offenses:
 - a. Normally, the name, address or other distinctly unique information that would serve to identify a juvenile *SHALL NOT* be released;
 - b. A judge may authorize release of juvenile identity information when the crime is a violent juvenile felony, the juvenile is 14 years *of age* or older and when the juvenile is sentenced as an adult;
 - c. A supervisor may release information pursuant to official written requests from other law-enforcement agencies for current information. This information is limited to name, address, physical description, date of arrest, and the arrest charge;
 - d. Age, sex, place of residence (town, city or county but ordinarily not street address), and details of the offense *MAY* be released;
 - e. Under certain circumstances, a judge may authorize release of identity information:
 - 1.) VA Code §16.1-299 addresses the confidentiality of arrest data (fingerprints and photographs) of juveniles.
 - 2.) VA Code §16.1-305 addresses the confidentiality of court records. If the court adjudicates as delinquent a person older than 14 years for an offense that would be considered a felony if it were committed by an adult, certain information (listed in the statute) may be made public unless the judge orders otherwise.
 - 3.) VA Code §16.1-309.1 lists exceptions to confidentiality of records regarding juveniles.
 - 4.) A judge may authorize release of juvenile identity information in certain situations including when the juvenile is sentenced as an adult.
 - f. Information on minor traffic infractions is releasable including the names and addresses of those involved;
 - g. Accidents – If traffic charges are pending as a result of an accident investigation, juvenile identity information shall be withheld. If a juvenile is involved in an accident, but is not charged with any violation, identity information is releasable; *and*,

- h. Juvenile identity information SHALL NOT be released for the following serious violations:
 - 1.) Indictable offenses.
 - 2.) DUI or permitting another whom is under the influence to operate a vehicle owned by accused.
 - 3.) Exceeding speed limit by 20 or more miles per hour.
 - 4.) Reckless driving.
 - 5.) Driving under suspension or revocation of driver's license.
 - 6.) Leaving the scene of an accident.
 - 7.) Driving without being licensed.

F. Special Situations:

1. Names of Police Officers:

Names of officers providing records and/or information to the media may be given to the media and published including the name of an investigating officer unless the officer involved is on an undercover assignment. Addresses, telephone numbers or personal information of agency personnel SHALL NOT be released.

2. High Profile Incidents:

The Public Affairs Manager or on-call staff will either release or coordinate the release of information during certain high profile incidents. They will be notified immediately by the **Watch Commander** or designee (24 hours a day) of the following incidents:

- a. Police-related shootings;
- b. Serious injury or death of a police officer while in performance of duty, deaths from fire when arson is suspected, or police pursuits that result in death;
- c. Arrest of a Police Department member or a City or public official;
- d. Multiple homicides at one general location or multiple traffic fatalities under unusual circumstances;
- e. Hostage or barricade situations or Bomb Unit call-outs (**including** when SWAT or Hostage Negotiators are called and not in minor standoffs);
- f. Shootings on school property;
- g. Riots or civil disturbances; and,

- h. Any high profile or controversial incident likely to generate more than routine media interest.

3. Other Incident Scenes:

- a. In the absence of Public Affairs Unit staff or the **Watch Commander**, all on-scene Department members shall direct media ***inquiries*** to the ranking officer or the senior investigative officer at the scene.
- b. Any time the Department participates in an event which involves other agencies, media inquiries will be referred to the agency in charge of the event.
- c. All members of the Department, both civilian and sworn, will be held accountable for statements made to the media.

4. Access to Emergency Scenes:

VA Code §15.2-1714 defines emergency situations/incidents and establishes guidelines for allowing persons into those situations. The summary listed below is not intended to be all-inclusive, but intended to serve as a quick reference. Sworn members should become familiar with the complete text of the above referenced Code.

- a. Release of information at a crime scene or permission to enter an area may be restricted unless the media representative produces valid media credentials. Media will be restricted from a scene if it is being investigated.
 - b. Media representatives are not permitted to interview person(s) in police custody. Following completion of the arrest process, any arrangements for interviews will be the responsibility of the Sheriff's Department.
5. If there is a question as to what information may be released to the media, outside of the guidelines in this Order, the media representative/requestor ***shall*** be referred to the Manager of the Public Affairs Unit, prior to the release.
6. ***All public or legal requests for reviewing or copying video/audio recordings will be referred to the Office of General Counsel. In processing any such request, all personnel shall adhere to the provisions of this policy in addition to the procedures outlined in General Order 6-14, Digital Mobile Video Recorder System (DMVR).***

G. Processing of Freedom of Information Act (FOIA) Requests:

- 1. Although ***written*** FOIA requests ***are not required***, the Department makes available the Virginia Freedom of Information Act Request for Records (PD-137) to any citizen making a FOIA request.
- 2. Upon receipt of a written request pursuant to Virginia FOIA or the completion of a PD-137, the ***documents must*** be immediately forwarded to the Office of the General Counsel.

NOTE: Selected FOIA requests or PD-137 forms may be processed by the Public Affairs Unit.

3. The Office of the General Counsel shall review the request letter or PD-137 to determine what, if any, documents shall be released in accordance with the Act.
4. Written notification to the requestor must be made within five business days from the receipt of the request. The day after the day of receipt is Day 1 for counting purposes.
5. In the event the information cannot be obtained within the five working days, the employee processing the FOIA request shall notify the requestor of the delay. An additional seven working days will be allowed to obtain the requested information.
6. Any request for information that has not been reduced to writing shall be referred to the Public Affairs Unit. Public Affairs ***personnel*** will receive all telephone requests, document ***the call(s)*** on a PD-137 and forward ***it*** to the Office of the General Counsel and/or Records Custodian for appropriate response.
7. If requested, the Office of the General Counsel shall be notified of the amount of time taken to research and copy the information requested. If it is determined that no documents exist that are responsive to the request, a statement to that effect ***shall*** be sent with a copy of the request letter ***or PD-137*** to the Office of the General Counsel.
8. A fee shall be assessed based upon the actual cost incurred to access, duplicate, supply and/or search for the requested records (including, when applicable, the number of ***labor*** hours times the hourly rate of the employee processing the FOIA request.) The employee selected to search, gather, and redact (concealing private information from public view) necessary information responsive to the request will be the lowest paid employee capable of performing these tasks. An invoice shall be prepared and a copy sent to Central Records to record and assist in collecting the costs of producing the documents. The invoiced fee will also include the actual cost of mailing or delivering the documents.
9. The Office of General Counsel will communicate the cost estimate to the requestor by the fastest means possible.
 - a. If the estimated cost of fulfilling the request is less than or equal to two hundred dollars (\$200.00), the Office of General Counsel shall inform the requestor that payment is due upon delivery of the requested records.
 - b. If the estimated cost of fulfilling the request is greater than two hundred dollars (\$200.00), the Office of General Counsel shall inform the requestor in writing that, as authorized by VA Code section 2.2-3704(F), (i) the City will not continue to process the request until it has received a deposit in the amount of the estimate from the requestor, (ii) the City will credit the deposit toward the final cost of supplying the requested records, and (iii) that the statutory period within which the City must respond will be delayed or tolled until the City receives the deposit.

10. The Central Records Unit shall release the requested packages and collect all applicable fees between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday only.
11. The following is the current fee schedule: These fees may be waived on the authority of the Chief of Police.

Copy of Accident Report	\$5.00
Copy of Incident Report (Victim may receive copy at no charge)	\$5.00
Record check by name (with copy)	\$5.00
All Additional Copies	\$1.00

Fingerprinting on request	\$5.00
Photographs (each print)	\$8.00

Copies of records not otherwise specifically described in this section that are subject to disclosure under the Virginia FOIA or in response to a subpoena	<i>\$0.10</i> per page
Research of records per hour or any part thereof, prorated	Salary rate per hour of person(s) doing research
Additional research requests for records requiring extensive research and/or extensive expenditures of staff time to the extent <i>that it is</i> operationally practicable	Salary rate per hour of person(s) doing research

H. Crime Data and/or Statistical Information:

1. Precinct Commanders may authorize the release of information regarding activities exclusively within their geographical area of the City. The format for such release shall be address specific except when investigation sensitive or legally prohibited.
2. All requests for crime data and or statistical information that are not specifically related to any one geographical area shall be forwarded to the Public Affairs Unit for appropriate response.
3. The Public Affairs Unit shall be the designated recipient of all external statistical data requests for the Department and shall accept requests for information in all forms including, but not limited to phone, e-mail, fax or written request.

4. If any department employee receives a request for data (other than outlined above), ***he/she*** shall forward that request to the Public Affairs Unit. The employee shall also inform the requestor that the request will be forwarded to the Public Affairs Unit.
 5. A disclaimer shall be included on each dissemination of data, and the person receiving the data shall abide by such disclaimer. The disclaimer shall state “The Richmond Police Department has released the following information and makes no claim as to its authenticity or accuracy beyond the original dissemination.”
- I. Media Relations and/or Press Releases:
1. Every member of the Department shall make every reasonable effort consistent with this order to provide media representatives with full and accurate information, ***and to assist news personnel in covering routine news stories and at the scene of incidents.***
 2. All media representatives covering the Department are encouraged to obtain an official news media photo identification card from their respective agencies. The Richmond Police Department may from time to time require display of this card. Free-lancers also are encouraged to obtain photo credentials from the media agency for whom they are working or from a recognized media organization where they were previously working. The Richmond Police Department DOES NOT issue media credentials.
 3. Media representatives visiting the Department seeking information about previously occurring newsworthy items shall be referred to the Officer-in-Charge of the Central Records Unit or his/her designee. Incident reports and accident reports shall be carefully checked concerning involvement of juveniles before releasing information.
 4. At scenes of major fires, natural disasters or other catastrophic events, or at crime scenes, officers may establish perimeters and control access. As soon as possible after evidence has been processed and removed, media representatives shall be assisted in gaining access to the scene when it will not interfere with the law-enforcement mission. Officers may deny access for legitimate investigative or safety reasons.
 5. Employees cannot authorize the press to trespass on private property. The media representative is responsible for obtaining any permission necessary once the legitimate law-enforcement mission allows access to the scene on private property. Photography, filming or videotaping on private property requires the owner’s permission.
 6. ***The Public Affairs Unit shall prepare and distribute all news releases.***
- J. Compliance with Legal Papers, Court Orders and Subpoena Duces Tecum:
1. Any member of the Department that receives any Legal Paper, Court Order or Subpoena Duces Tecum shall follow the appropriate procedures outlined in

General Order 6-19, Receipt/Transmittal of Legal Papers and Lawsuit Papers for Employees.

2. All verbal requests by attorneys and court officials shall be directed to the Department's Office of the General Counsel.

K. Rights of the Media Representatives:

1. Representatives of the news media have a right to photograph and report events that transpire on public property but must do so in a peaceful manner without causing any physical damage, destroying any evidence or interfering with an investigation.
2. The mere presence of a reporter or photographer at an accident, crime, or disaster scene does not constitute unlawful interference and he/she ***shall*** not be restricted unless it interferes with the investigation or execution of duties by police personnel or becomes a safety issue.
3. Representatives of the news media may not resist, obstruct or oppose a police officer in the lawful execution of his/her legal duties or enter restricted areas without permission where evidence could be destroyed.
4. During the execution of a search warrant, media representatives are prohibited from entering private dwellings or any other places where owners/occupants have a recognized expectation of privacy unless consent by such owner/occupant is given.
5. Any Department member having a complaint regarding the conduct of any news media representative shall forward the complaint, in writing, through channels to the Chief of Police or designee. If the complaint is referred to the Public Affairs Manager, the incident(s) shall be reviewed and a recommendation made to the Chief of Police or designee, if appropriate. If the Chief of Police or designee concurs with the suggested recommendation, the Public Affairs Manager will inform the Department member of the approved action to be taken.
6. Any media representative having a complaint against the conduct of a Department member may do so in writing to the Internal Affairs Unit.

VI. FORMS

PD-137, Virginia Freedom of Information Act - Request for Records